

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ANTHONY C. MAZZONE,

Petitioner,

v.

Civil Action No. 2:07cv35

JOSE ESPARZA,

Respondent.

ORDER DENYING MOTION AS MOOT

On February 22, 2007, the *pro se* petitioner filed an Application for Habeas Corpus pursuant to 28 U.S.C. §2255, seeking an order re-sentencing him to a term of 8 months imprisonment and 2 months halfway house, to allow him to go to a halfway house under FCI Morgantown's administrative rules. The application was filed in the United States District Court for the District of New Jersey. On April 18, 2007, the court in New Jersey entered an order which indicated that the petition should be brought in whatever district the petitioner resides pursuant to 28 U.S.C. § 2241. Therefore, the matter was transferred to this court on April 26, 2007, because the petitioner was then incarcerated at FCI Morgantown.

On May 14, 2007, the petitioner filed a Motion to Expedite Hearing. As grounds for his motion, the petitioner indicated that he was due to be released from custody on or about May 30, 2007 and had no place to stay and no funds. Seven days later, on May 31, 2007, the petitioner was released from the custody of the Bureau of Prisons, and accordingly, the relief requested in his petition was rendered moot.¹

Therefore, the plaintiff's Motion to Expedite Hearing (Doc. 10) is **DENIED** as moot.

¹A Report and Recommendation was filed in this matter on June 14, 2007, recommending that the petition for writ of habeas corpus be dismissed as moot.

IT IS SO ORDERED.

The Clerk is directed to provide a copy of this Order to the petitioner and counsel of record.

DATED: November 15, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE